THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION Nos.24094 of 2005 AND 25318 of 2005

DATED: 31.08.2006

WP.No.24094 of 2005

Between:

Ekalavya Girijana Sanitary and Civil Works Labour Contract Society Limited, represented by its President P.Chandraiah. .. PETITIONER

Versus

The Commissioner, Warangal Municipal Corporation, Warangal, Warangal District and another. .. RESPONDENTS

WP.No.25318 of 2005

Between:

S.C. Municipal Sanitary Labour Contract Cooperative Society, Nagendranagar, Waddepally, Hanamkonda, Warangal District, represented by its President Vakkala Venkat Swamy. .. PETITIONER

versus

The Commissioner, Warangal Municipal Corporation, Warangal, Warangal District and another. .. RESPONDENTS

WRIT PETITION Nos.24094 of 2005 AND 25318 of 2005

COMMON ORDER:

These two Writ Petitions are coming up under the caption of 'interlocutory' and on the request of both the learned counsel, the Writ Petitions are being disposed of finally.

2. It is stated that the counter affidavit is filed in Writ Petition No.24094 of 2005 and though no separate counter affidavit is filed in other Writ Petition No.25318 of 2005, the facts being similar and the question involved also being the same, a request is made that both the Writ Petitions can be disposed of finally in the light of the pleadings in the aforesaid Writ Petitions.

3. Writ Petition No.24094 of 2005 is filed for a Writ of Mandamus to declare the action of the 1st respondent in entrusting the sanitation work pursuant to Tender Notification ROC.No.F1/3129/03-05, dated 19.10.2005 to the 2nd respondent is contrary to the 2nd and 3rd tender terms and conditions of the Tender document and further declare the said action is illegal, arbitrary and violative of Article 14 of the Constitution of India and pass such other suitable orders. Likewise Writ Petition No.25318 of 2005 is filed praying for the relief of Writ of Mandamus to declare the action of the 1st respondent in entrusting the sanitation work pursuant to Tender Notification ROC.No.F1/3129/03-05, dated 19.10.2005 to the 2nd respondent is contrary to the 2nd and 3rd tender terms and conditions of the Tender document and further declare the said action is illegal, arbitrary and violative of Article 14 of the Constitution of India and pass such other suitable orders.

4. Substantially the factual matrix and the stand taken in both the Writ Petitions appear to be the same except the fact that the first Writ Petition is concerned with 17th Unit and the second Writ Petition is concerned with 22nd Unit, and also the writ petitioners and the 2nd respondent in both the Writ Petitions being different.

5. Sri Pankaj Reddy, learned counsel for the writ petitioners had drawn the attention of this Court to the terms and conditions of the tender and also had drawn attention of this Court to paragraph 7 of the affidavit in particular and also the stand taken in the counter affidavit and would submit that the 1st respondent is bound to follow the terms and conditions of the tender. In all fairness the learned counsel would submit that the term is coming to an end by the end of next month.

6. It is stated in both the affidavits filed in support of the respective Writ Petitions that the 1st respondent issued Tender Notification with certain conditions inviting applications from registered Dalith Sanitary Labour Contract Societies, DWACUA and other registered labour contractors for execution of sanitary works through privatization system, and several other factual details also had been narrated. The main grievance of the petitioners is that the 2nd respondent is not eligible to submit the tender inasmuch as the same is contrary to the terms and conditions of the tender.

7. In the counter affidavit filed it is stated that the 1st respondent has been entrusting the sanitation works to the 2nd respondent and the 1st respondent had followed all terms and conditions and had not violated any of the Rules or Regulations. It is also stated that keeping in view the several representations, the 1st respondent, with a view to give an opportunity to participate in the tender, had amended the tender notification and displayed the relaxed tender notification on the notice board of Warangal Municipal Corporation on 24.10.2005 and this fact

is known to the petitioners and other such organizations. It is also stated that the 1st respondent-authority on the contrary prescribed 15% reservation vide GO.Ms.No.30, dated 18.1.2000, had allotted more than 30% of the Units i.e., out of 27 units, 8 units are reserved for the Dalith

Sanitary Labour Contract Societies. It is also stated that the petitioner-society had executed the work during the last year wherein the 1st respondent-authority had received several complaints of incomplete and unhygienic works done by the petitioner-society. Several other facts also had been narrated in relation to the petitioner-society. It is also stated that it is true that the petitioner-society had submitted its tender form in the 17th unit in relation to the first Writ Petition. It is needless to say that the 2nd Writ Petition is concerned with 22nd unit. It is also stated that all the societies that had participated in the tenders and also in the draw as mentioned in the tender notification belong to retired public health workers and their children who belong to the Scheduled Caste and Scheduled Tribes. It is also stated that those who participated in the draw are all poor and economically backward persons eking out their livelihood by executing such sanitation works. The reservation of the respective units appears to be not in serious dispute. It is stated that as per the relaxation of experience and by the selection through draw that was conducted, the 1st respondent-authority is under the impression of entertaining the 2nd respondent in allotting the works in clearing the garbage etc., as it is an eligible society and had been drawn in the lottery system and it is also stated that it is false to say that the 1st respondent-authority had allotted work to the 2nd respondent in violation of the tender rules and regulations. Certain other factual details also had been narrated.

8. In the light of the facts narrated in the affidavits filed in the

respective Writ Petitions and also the stand taken in the counter affidavit filed by the 1st respondent and further taking into consideration that the contract works are coming to an end within a short time, the Writ Petitions are disposed of directing the 1st respondent to observe the Rules and Regulations governing the field in this regard. Except making this observation, nothing else can be done at this stage.

9. With the above observation, both the Writ Petitions are disposed of. No costs.

31.08.2006

SSR